

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2009-1829-MWD-E TCEQ ID: RN101614212 CASE NO.: 38667**  
**RESPONDENT NAME: 8 Mile Park, L.P.**

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<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Autumn Shadows WWTP, located in the Autumn Shadows Subdivision on the south side of State Highway 35 approximately 570 feet east of the intersection of State Highway 35 and Farm-to-Market Road 1459, Brazoria County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> <b>Yes</b>    <input type="checkbox"/> <b>No</b></p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 31, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Ronnie Finkelman, Member, 8 Mile Park, L.P., 8020 Blakenship Drive, Houston, Texas 77055  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 15, 2009 and September 29, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 22, 2009 and December 11, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation and a records review.</p> <p><b>WATER</b></p> <p>1) Failed to comply with permit effluent limits for biochemical oxygen demand, total suspended solids, and dissolved oxygen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013796001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p> <p>2) Failed to collect and analyze samples for chlorine residual for the monitoring periods ending April 2008 through December 2008 and January 2009 through March 2009. Specifically, the Respondent reported on the discharge monitoring reports ("DMR") that no data was available for this parameter [30 TEX. ADMIN. CODE § 319.4 and TPDES Permit No. WQ0013796001, Effluent Limitations and Monitoring Requirements No. 2].</p> <p>3) Failed to submit the annual sludge report for the monitoring period ending July 31, 2008, by September 1, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013796001, Sludge Provisions].</p>	<p><b>Total Assessed:</b> \$39,998</p> <p><b>Total Deferred:</b> \$35,920  <input checked="" type="checkbox"/> Expedited Settlement  <input checked="" type="checkbox"/> Financial Inability to Pay</p> <p>The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty.</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$123 (remaining \$3,955 due in 35 monthly payments of \$113 each)</p> <p><b>Compliance History Classifications:</b>  Person/CN - Average  Site/RN - Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Update the Facility's operations guidance to ensure that all effluent parameters, including chlorine residual are monitored at the frequency specified in the permit;</p> <p>ii. Submit the annual sludge report for the monitoring period ending July 31, 2008;</p> <p>iii. Enclose the Facility with an eight foot intruder-resistant fence with barbed wire and with signs stating "Danger - Open Tanks - No Trespassing" fastened to the fence and within visible distance of each other;</p> <p>iv. Install an RPZ backflow prevention device or air gap on the main potable water line to the Facility;</p> <p>v. Begin maintaining operations and maintenance records and all monitoring records on site; and</p> <p>vi. Ensure a properly certified operator operates the Facility at least five days per week.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provisions a.i. through a.vi.;</p> <p>c. Within 60 days after the effective date of this Agreed Order:</p> <p>i. Install a high-level alarm and an operational backup pump for the lift station at the Facility;</p> <p>ii. Install a back-up blower at the Facility;</p> <p>iii. Ensure the weirs on the clarifiers are level in order to prevent short circuiting;</p>

<p>4) Failed to maintain operations and maintenance records. Specifically, the daily operator's log was not available for review during the September 29, 2009 investigation [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0013796001, Operational Requirements No. 1].</p> <p>5) Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, two and a half feet of settled sludge in a six foot water depth was measured in the chlorine contact chamber, the staff gauge installed was not legible, the V-notch weir was severely rusted and can no longer be used to accurately measure flow, the weirs on the clarifier were not level, and only one blower was operational at the Facility [30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(g) and TPDES Permit No. WQ0013796001, Operational Requirements No. 1].</p> <p>6) Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, a high level alarm was not installed and only one pump was working at the on-site lift station [30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(g) and TPDES Permit No. WQ0013796001, Operational Requirements No. 1].</p> <p>7) Failed to employ a certified operator at the Facility a minimum of five days per week. Specifically, the operator stated that he lived 300 miles from the Facility and operates it once a week [30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1) and TPDES Permit No. WQ0013796001, Other Requirements No. 1].</p> <p>8) Failed to have all required monitoring and reporting records available for review upon request. Specifically, the DMRs were not available for review during the September 29, 2009 investigation [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(a) and (c), and TPDES Permit No. WQ0013796001, Monitoring and Reporting Requirements No. 3.b. and 3.c.].</p> <p>9) Failed to provide an intruder-resistant fence and hazard signage. Specifically, the fence surrounding the Facility did not have barbed wire and was less than eight feet tall in some</p>	<p>iv. Remove and properly dispose of sludge from the chlorine contact chamber; and</p> <p>v. Install a legible staff gauge and a V-notch weir or an accurate primary flow measuring device;</p> <p>d. Within 75 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provisions c.i. through c.v.;</p> <p>e. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013796001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations; and</p> <p>f. The written certification of compliance required by Ordering Provisions b., d., and e. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>
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**RESPONDENT NAME: 8 Mile Park, L.P.**  
**DOCKET NO.: 2009-1829-MWD-E**

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<p>areas and hazard signs stating "Danger - Open Tanks - No Trespassing" were not present [30 TEX. ADMIN CODE § 317.7(e)].</p> <p>10) Failed to provide a reduced pressure zone ("RPZ") backflow prevention device or air gap on the main potable water line to the Facility [30 TEX. ADMIN. CODE § 317.4(a)(8)].</p>		
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Additional ID No(s): WQ0013796001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	14-Dec-2009	<b>Screening</b>	23-Dec-2009	<b>EPA Due</b>	
	<b>PCW</b>	28-Dec-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	8 Mile Park, L.P.
<b>Reg. Ent. Ref. No.</b>	RN101614212
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	38667	<b>No. of Violations</b>	7
<b>Docket No.</b>	2009-1829-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Steve Villatoro
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$14,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	48.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$6,960
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**Notes** The penalty is enhanced due to 21 self-reported monthly effluent violations and three NOV's with unrelated violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$3,148
Approx. Cost of Compliance	\$50,900

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$21,460
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

<b>Final Penalty Amount</b>	\$21,460
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$21,460
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$4,292
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$17,168
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Screening Date 23-Dec-2009

Docket No. 2009-1829-MWD-E

PCW

Respondent 8 Mile Park, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38667

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614212

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	24	48%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 48%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The penalty is enhanced due to 21 self-reported monthly effluent violations and three NOVs with unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 48%

Screening Date 23-Dec-2009

Docket No. 2009-1829-MWD-E

PCW

Respondent 8 Mile Park, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38667

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614212

Media [Statute] Water Quality

Ent. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s) 30-Tex. Admin. Code § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013796001, Operational Requirements No. 1

Violation Description

Failed to maintain operations and maintenance records. Specifically, the daily operator's log was not available for review during the September 29, 2009 investigation.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Major	Harm Moderate	Minor
Release Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of rule requirement not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

85 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$1,480

This violation Final Assessed Penalty (adjusted for limits) \$1,480

# Economic Benefit Worksheet

Respondent: 8 Mile Park, L.P.  
 Case ID No: 38667  
 Reg. Ent. Reference No: RN101614212  
 Media: Water Quality  
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$200	29-Sep-2009	31-Jul-2010	0.84	\$8	n/a	\$8
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop a record keeping system for maintenance and operational records. Date required is the investigation date. Final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$8



<b>Screening Date</b> 23-Dec-2009 <b>Respondent</b> 8 Mile Park, L.P. <b>Case ID No.</b> 38667 <b>Reg. Ent. Reference No.</b> RN101814212 <b>Media [Statute]</b> Water Quality <b>Enf. Coordinator</b> Steve Villatoro <b>Violation Number</b> 2 <b>Rule Cite(s)</b> 30 Tex. Admin. Code §§ 305.125(5) and 317.4(g) and TPDES Permit No. WQ0013796001, Operational Requirements No. 1	<b>Docket No.</b> 2009-1829-MWD-E  Policy Revision 2 (September 2002) PCW Revision October 30, 2008	<b>PCW</b>
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**Violation Description**

Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, two and a half feet of settled sludge in a six foot water depth was measured in the chlorine contact chamber, the staff gauge installed was not legible, the V-notch weir was severely rusted and can no longer be used to accurately measure flow, the weirs on the clarifier were not level, and only one blower was operational at the Facility, as documented during the September 29, 2009 investigation.

**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

OR	Harm					
	Release	Major	Moderate	Minor		
	Actual					
	Potential		X		Percent	10%

**>> Programmatic Matrix**

Falsification				Major				Moderate				Minor					
Percent		0%															

**Matrix Notes** Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

**Adjustment** \$9,000

\$1,000

**Violation Events**

	1	.85	Number of violation days
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mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

One quarterly event is recommended from the investigation date (September 29, 2009) to the screening date (December 23, 2009).

**Violation Base Penalty** \$1,000

**Good Faith Efforts to Comply**

0.0% Reduction		
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes** The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$1,000

**Economic Benefit (EB) for this violation**

Estimated EB Amount	\$514	Violation Final Penalty Total	\$1,480
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**Statutory Limit Test**

This violation Final Assessed Penalty (adjusted for limits) \$1,480

# Economic Benefit Worksheet

**Respondent** 8 Mile Park, L.P.  
**Case ID No.** 38667  
**Reg. Ent. Reference No.** RN101614212  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$8,000	29-Sep-2009	30-Aug-2010	0.92	\$24	\$489	\$514
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to remove and properly dispose of sludge from the chlorine contact chamber; install a legible staff gauge, a V-notch weir or an accurate primary flow measuring device, a backup blower at the Facility, and level weirs on the clarifiers. Date required is the investigation date and final date is date of expected compliance

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$8,000

TOTAL

\$514

Screening Date 23-Dec-2009

Docket No. 2009-1829-MWD-E

PCW

Respondent 8 Mile Park, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38667

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614212

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(6) and 317.4(g) and TPDES Permit No. WQ0013796001, Operational Requirements No. 1

Violation Description Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, a high level alarm was not installed and only one pump was working at the on-site lift station, as documented during the September 29, 2009 investigation.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

.85 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date (September 29, 2009) to the screening date (December 23, 2009).

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$225

Violation Final Penalty Total \$1,480

This violation Final Assessed Penalty (adjusted for limits) \$1,480

# Economic Benefit Worksheet

**Respondent:** 8 Mile Park, L.P.  
**Case ID No.:** 38867  
**Reg. Ent. Reference No.:** RN101614212  
**Media:** Water Quality  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$3,500	29-Sep-2009	30-Aug-2010	0.92	\$11	\$214	\$225
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to install a high level alarm and provide a back up pump for the on-site lift station. Date required is the investigation date and final date is date of expected compliance

## Avoided Costs

ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,500

TOTAL

\$225

Screening Date 23-Dec-2009

Docket No. 2009-1829-MWD-E

PCW

Respondent 8 Mile Park, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38667

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614212

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 30.350(d) and 305.125(1) and TPDES Permit No. WQ0013796001, Other Requirements No. 1

## Violation Description

Failed to employ a certified operator at the Facility a minimum of five days per week. Specifically, the operator stated that he lived 300 miles from the Facility and operates it once a week, as documented during the September 29, 2009 investigation.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

85 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date (September 29, 2009) to the screening date (December 23, 2009).

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1,170

Violation Final Penalty Total \$1,480

This violation Final Assessed Penalty (adjusted for limits) \$1,480

# Economic Benefit Worksheet

**Respondent** 8 Mile Park, L.P.  
**Case ID No.** 38667  
**Reg. Ent. Reference No.** RN101614212  
**Media** Water Quality  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No continues or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$20,000	29-Sep-2009	31-Jul-2010	0.84	\$58	\$1,114	\$1,170
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to hire an operator that operates the Facility at least five times per week. Date required is the investigation date. Final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

TOTAL

\$1,170

<b>Screening Date</b> 23-Dec-2009 <b>Respondent</b> 8 Mile Park, L.P. <b>Case ID No.</b> 38867 <b>Reg. Ent. Reference No.</b> RN101614212 <b>Media [Statute]</b> Water Quality <b>Enf. Coordinator</b> Steve Villatoro <b>Violation Number</b> 5 <b>Rule Cite(s)</b> 30 Tex. Admin. Code §§ 305.125(1) and 319.7(a) and (c), and TPDES Permit No. WQ0013796001; Monitoring and Reporting Requirements No. 3.b and 3.c <b>Violation Description</b> Failed to have all required monitoring and reporting records available for review upon request. Specifically, the discharge monitoring reports ("DMR") were not available for review during the September 29, 2009 investigation.	<b>Docket No.</b> 2009-1829-MWD-E <b>PCW</b> <small>Policy Revision 2 (September 2002)          PCW Revision October 30, 2008</small>
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<b>Base Penalty</b>	\$10,000
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**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Release</b>	<b>Harm</b>			<b>Percent</b>
		Major	Moderate	Minor	
	Actual	Potential			
		0%			

**>> Programmatic Matrix**

<b>Matrix Notes</b>	<b>Falsification</b>	<b>Harm</b>			<b>Percent</b>
		Major	Moderate	Minor	
	Actual	Potential			
		10%			

<b>Adjustment</b>	\$9,000
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	\$1,000
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**Violation Events**

<b>Number of Violation Events</b> 1	85	<b>Number of violation days</b>
-------------------------------------	----	---------------------------------

<small>mark only one with an x</small>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

<b>Violation Base Penalty</b>	\$1,000
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One single event is recommended.	
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**Good Faith Efforts to Comply**

	0.0%	<b>Reduction</b>
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.
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<b>Violation Subtotal</b>	\$1,000
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**Economic Benefit (EB) for this violation**

<b>Estimated EB Amount</b>	\$8	<b>Statutory Limit Test</b>
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<b>Violation Final Penalty Total</b>	\$1,480
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<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$1,480
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# Economic Benefit Worksheet

Respondent: 8 Mile Park, L.P.

Case ID No: 38867

Reg. Ent. Reference No: RN101614212

Media: Water Quality

Violation No: 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$200	29-Sep-2009	31-Jul-2010	0.84	\$8	n/a	\$8
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop a record keeping system for maintaining DMRs on site. Date required is investigation date. Final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$8



<b>Screening Date</b> 23-Dec-2009 <b>Respondent</b> 8 Mile Park, L.P. <b>Case ID No.</b> 38667 <b>Reg. Ent. Reference No.</b> RN101614212 <b>Media [Statute]</b> Water Quality <b>Enf. Coordinator</b> Steve Villatoro <b>Violation Number</b> 6 <b>Rule Cite(s)</b> 30 Tex. Admin. Code § 317.7(e)	<b>Docket No.</b> 2009-1829-MWD-E <b>PCW</b> <small>Policy Revision 2 (September 2002)          PCW Revision October 30, 2008</small>
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**Violation Description**  
 Failed to provide an intruder-resistant fence and hazard signage. Specifically, the fence surrounding the Facility did not have barbed wire and was less than eight feet tall in some areas and hazard signs stating "Danger - Open Tanks - No Trespassing" were not present, as documented during the September 29, 2009 investigation.

**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**  

	<b>Harm</b>				
		Major	Moderate	Minor	
<b>OR</b>	Release				
	Actual				
	Potential		X		<b>Percent</b> 10%

**>> Programmatic Matrix**  

	<b>Falsification</b>				
		Major	Moderate	Minor	
					<b>Percent</b> 0%

**Matrix Notes** Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

**Adjustment** \$9,000

\$1,000

**Violation Events**  

Number of Violation Events	1	85	Number of violation days
----------------------------	---	----	--------------------------

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,000

One quarterly event is recommended from the investigation date (September 29, 2009) to the screening date (December 23, 2009).

**Good Faith Efforts to Comply**

	0.0%	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	X	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		

**Violation Subtotal** \$1,000

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount	\$514
	<b>Violation Final Penalty Total</b> \$1,480
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$1,480

# Economic Benefit Worksheet

Respondent 8 Mile Park, L.P.

Case ID No. 38667

Reg. Ent. Reference No. RN101614212

Media: Water Quality

Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$8,000	29-Sep-2009	30-Aug-2010	0.92	\$24	\$489	\$514
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to render existing fences around the Facility intruder-resistant and properly install hazard signage.  
Date required is the investigation date and final date is date of expected compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$8,000

TOTAL

\$514

Screening Date 23-Dec-2009

Docket No. 2009-1829-MWD-E

PCW

Respondent 8 Mile Park, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38667

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614212

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 317.4(a)(8)

Violation Description

Failed to provide a reduced pressure zone ("RPZ") backflow prevention device or air gap on the main potable water line to the wastewater plant, as documented during the September 29, 2009 investigation.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could be exposed to significant amounts of pollutants which would exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

## Violation Events

3

85

Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Three monthly events are recommended from the investigation date (September 29, 2009) to the screening date (December 23, 2009).

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$64

Violation Final Penalty Total \$11,100

This violation Final Assessed Penalty (adjusted for limits) \$11,100

# Economic Benefit Worksheet

Respondent: 8 Mile Park, L.P.  
 Case ID No. 38667  
 Reg. Ent. Reference No. RN101614212  
 Media: Water Quality  
 Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	29-Sep-2009	30-Aug-2010	0.92	\$3	\$61	\$64
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install and RPZ backflow prevention device or air gap. Date required is the investigation date and final date is date of expected compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$64



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	26-Oct-2009	Screening	3-Nov-2009	EPA Due	
	PCW	5-Nov-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	8 Mile Park, L.P.
Reg. Ent. Ref. No.	RN101614212
Facility/Site Region	12-Houston
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38667	No. of Violations	3
Docket No.	2009-1829-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	Subtotal 1	\$9,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	120.0% Enhancement	Subtotals 2, 3, & 7	\$10,800
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Notes: The penalty is enhanced due to 21 self-reported monthly effluent violations and three NOVs with violations similar to those cited in this action.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement	Subtotal 6	\$0
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Total EB Amounts \$1,459  
Approx. Cost of Compliance \$5,950  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	Final Subtotal	\$19,800
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	-6.4%	Adjustment	-\$1,262
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction in the penalty so that monthly self-reported violations and double-enhancement of the penalty amount for same violations that were self-reported do not overly impact the penalty amount; and includes the recommended enhancement to capture avoided cost associated with Violation No. 2.

Final Penalty Amount	\$18,538
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<b>STATUTORY LIMIT ADJUSTMENT</b>	Final Assessed Penalty	\$18,538
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<b>DEFERRAL</b>	20.0% Reduction	Adjustment	-\$3,707
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$14,831
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Screening Date 3-Nov-2009

Docket No. 2009-1829-MWD-E

PCW

Respondent 8 Mile Park, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38667

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614212

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	24	120%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 120%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The penalty is enhanced due to 21 self-reported monthly effluent violations and three NOVs with violations similar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 120%

<b>Screening Date</b> 3-Nov-2009 <b>Respondent</b> 8 Mile Park, L.P. <b>Case ID No.</b> 38667 <b>Reg. Ent. Reference No.</b> RN101614212 <b>Media [Statute]</b> Water Quality <b>Enf. Coordinator</b> Steve Villatoro <b>Violation Number</b> 1 <b>Rule Cite(s)</b> Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 805.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013796001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6 <b>Violation Description</b> Failed to comply with permit effluent limits, as documented during a record review conducted on June 15, 2009 and shown in the attached table.	<b>Docket No.</b> 2009-1829-MWD-E  <b>PCW</b> <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2008</i>																			
<b>Base Penalty</b> \$10,000																				
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
<b>OR</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td><b>Release</b></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td>X</td> <td rowspan="2"><b>Percent</b> 10%</td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>		Harm				<b>Release</b>	Major	Moderate	Minor		Actual			X	<b>Percent</b> 10%	Potential			
	Harm																			
<b>Release</b>	Major	Moderate	Minor																	
Actual			X	<b>Percent</b> 10%																
Potential																				
<b>&gt;&gt; Programmatic Matrix</b>																				
<b>Matrix Notes</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <th>Falsification</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td><b>Percent</b> 0%</td> </tr> </table> <p>A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Dissolved oxygen and total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.</p>		Falsification	Major	Moderate	Minor							<b>Percent</b> 0%							
	Falsification	Major	Moderate	Minor																
					<b>Percent</b> 0%															
<b>Adjustment</b> \$9,000																				
\$1,000																				
<b>Violation Events</b>																				
<table style="width: 100%;"> <tr> <td style="width: 40%;"> <b>Number of Violation Events</b> 4         </td> <td style="width: 20%; text-align: center;">303</td> <td style="width: 40%;"> <b>Number of violation days</b> </td> </tr> </table>		<b>Number of Violation Events</b> 4	303	<b>Number of violation days</b>																
<b>Number of Violation Events</b> 4	303	<b>Number of violation days</b>																		
<b>mark only one with an x</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td>X</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		weekly		monthly		quarterly	X	semiannual		annual		single event						
daily																				
weekly																				
monthly																				
quarterly	X																			
semiannual																				
annual																				
single event																				
<b>Violation Base Penalty</b> \$4,000																				
Four quarterly events are recommended.																				
<b>Good Faith Efforts to Comply</b>																				
<b>0.0% Reduction</b> \$0																				
<table style="width: 100%;"> <tr> <td></td> <th>Before NOV</th> <th>NOV to EDPRP/Settlement</th> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td>X</td> <td>(mark with x)</td> </tr> </table>			Before NOV	NOV to EDPRP/Settlement	Extraordinary			Ordinary			N/A	X	(mark with x)							
	Before NOV	NOV to EDPRP/Settlement																		
Extraordinary																				
Ordinary																				
N/A	X	(mark with x)																		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.																			
<b>Violation Subtotal</b> \$4,000																				
<b>Economic Benefit (EB) for this violation</b>																				
<b>Statutory Limit Test</b>																				
<b>Estimated EB Amount</b> \$788	<b>Violation Final Penalty Total</b> \$8,239																			
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$8,239																				

# Economic Benefit Worksheet

Respondent: 8 Mile Park, L.P.  
 Case ID No. 38667  
 Reg. Ent. Reference No. RN101614212  
 Media: Water Quality  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	30-Jun-2008	30-Sep-2010	2.25	\$38	\$751	\$788
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to determine the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$788



Screening Date 3-Nov-2009

Docket No. 2009-1829-MWD-E

PCW

Respondent 8 Mile Park, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38867

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614212

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 319.4 and TPDES Permit No. WQ0013796001, Effluent Limitations and Monitoring Requirements No. 2

Violation Description

Failed to collect and analyze samples for chlorine residual for the monitoring periods ending April 2008 through December 2008 and January 2009 through March 2009, as documented during a record review conducted on June 15, 2009. Specifically, the Respondent reported on the discharge monitoring reports that no data was available for this parameter.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 4

336 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$4,000

Four quarterly events are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$4,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$657

Violation Final Penalty Total \$8,239

This violation Final Assessed Penalty (adjusted for limits) \$8,239

# Economic Benefit Worksheet

Respondent: 8 Mile Park, L.P.

Case ID No: 38667

Reg. Ent. Reference No: RN101614212

Media: Water Quality

Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No continuation of \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	1-Apr-2008	31-Jul-2010	2.33	\$29	n/a	\$29
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update operational guidance to ensure sampling for chlorine residual is conducted. Date required is the first date of non-compliance. Final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$600	1-Apr-2008	31-Mar-2009	1.00	\$30	\$598	\$628
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost that was avoided by failing to analyze the required parameters at \$50 per month. Date required is the first date of noncompliance. Final date is the last date of non-compliance.

Approx. Cost of Compliance

\$850

TOTAL

\$657

<b>Screening Date</b> 3-Nov-2009 <b>Respondent</b> 8 Mile Park, L.P. <b>Case ID No.</b> 38667 <b>Reg. Ent. Reference No.</b> RN101614212 <b>Media [Statute]</b> Water Quality <b>Enf. Coordinator</b> Steve Villatoro <b>Violation Number</b> 3 <b>Rule Cite(s)</b> 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0013796001, Sludge Provisions <b>Violation Description</b> Failed to submit the annual sludge report for the monitoring period ending July 31, 2008, by September 1, 2008, as documented during a record review conducted on June 15, 2009.	<b>Docket No.</b> 2009-1829-MWD-E <b>PCW</b> <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small>
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<b>Base Penalty</b>	\$10,000
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**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Release</b>	<b>Harm</b>			<b>Percent</b>
		Major	Moderate	Minor	
	Actual				
	Potential				0%

**>> Programmatic Matrix**

<b>Matrix Notes</b>	<b>Falsification</b>	Major	Moderate	Minor	<b>Percent</b>
		X			
100% of rule requirement was not met.					10%

<b>Adjustment</b>	\$9,000
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	\$1,000
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**Violation Events**

<b>Number of Violation Events</b> 1	428	<b>Number of violation days</b>
-------------------------------------	-----	---------------------------------

<small>mark only one with an x</small>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

One single event is recommended.	
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<b>Good Faith Efforts to Comply</b>	\$0
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	0.0% Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	

<b>Violation Subtotal</b>	\$1,000
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<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> \$13	<b>Violation Final Penalty Total</b> \$2,060
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$2,060	

# Economic Benefit Worksheet

Respondent 8 Mile Park, L.P.  
 Case ID No. 38667  
 Reg. Ent. Reference No. RN101614212  
 Media Water Quality  
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	One-time Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	1-Sep-2008	31-Jul-2010	1.91	\$1	\$13	\$13
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit the annual sludge report. Date required is date the report was due. Final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$13

EFFLUENT VIOLATION TABLE							
8 Mile Park, L.P.							
TPDES Permit No. WQ0013796001							
Docket No. 2009-1829-MWD-E							
Months	BOD Daily Avg. Conc.	BOD Single Grab Conc.	BOD Daily Avg. Loading	TSS Daily Avg. Loading	TSS Single Grab Conc.	TSS Daily Avg. Conc.	Dissolved Oxygen Min. Conc.
	Limit = 20 mg/L	Limit = 65 mg/L	Limit = 1.2 lbs/day	Limit = 1.2 lbs/day	Limit = 65 mg/L	Limit = 20 mg/L	min. = 2.0
6/30/2008	c	c	c	c	c	c	1.20
7/31/2008	54.50	69.00	1.35	c	c	33.75	0.80
8/31/2008	34.75	c	c	c	c	33.50	1.00
10/31/2008	34.00	c	c	c	c	31.30	1.80
12/31/2008	24.00	78.00	c	c	c	23.80	c
1/31/2009	55.00	81.00	1.39	c	c	39.50	1.10
2/28/2009	39.00	81.00	c	c	88.00	48.00	0.80
3/31/2009	23.00	c	c	1.56	80.00	63.00	1.60

conc. = concentration

lbs/day = pounds per day

mg/L = milligrams per liter

BOD = biochemical oxygen demand

avg. = average

TSS = total suspended solids

min. = minimum

c = compliant



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602860728	8 Mile Park, L.P.	Classification: AVERAGE	Rating: 3.12
Regulated Entity:	RN101614212	AUTUMN SHADOWS WWTP	Classification: AVERAGE	Site Rating: 3.12
ID Number(s):	WASTEWATER	PERMIT	WQ0013786001	
	WASTEWATER	PERMIT	TPDES0091421	
	WASTEWATER	PERMIT	TX0091421	
Location:	in the Autumn Shadows Subdivision on the south side of State Highway 35 approximately 570 feet east of the intersection of State Highway 35 and Farm-to-Market Road 1459 in Brazoria County, Texas			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	January 22, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 23, 2004 to December 23, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Steve Villatoro	Phone:	512-239-4930	

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? 8 Mile Park, L.P.
4. If Yes, who was/were the prior owner(s)/operator(s) ? DTK Equipment, Inc.  
JDS Realty, Inc.
5. When did the change(s) in owner or operator occur?  
01/01/2005 DTK Equipment, Inc.  
06/23/2005 JDS Realty, Inc.
6. Rating Date: 9/1/2009 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

3	01/20/2005	(387450)
4	02/22/2005	(387446)
5	03/21/2005	(387447)
6	04/12/2005	(376098)
7	04/22/2005	(425183)
8	05/23/2005	(425184)
9	06/24/2005	(425185)
10	07/22/2005	(445782)
11	08/22/2005	(445783)
12	09/30/2005	(445784)
13	10/24/2005	(477668)
14	11/22/2005	(477669)
15	12/22/2005	(477670)
16	01/23/2006	(477671)
17	02/21/2006	(477667)
18	04/17/2006	(504152)
19	04/17/2006	(504153)
20	06/19/2006	(504154)
21	06/19/2006	(504155)
22	07/21/2006	(526532)
23	09/14/2006	(526533)
24	09/14/2006	(526534)
25	09/20/2006	(512107)

26	10/05/2006	(625702)
27	11/20/2007	(596142)
28	03/16/2009	(759019)
29	04/14/2009	(741422)
30	05/07/2009	(771740)
31	05/07/2009	(771743)
32	05/08/2009	(771744)
33	05/08/2009	(771746)
34	05/09/2009	(771748)
35	05/08/2009	(771749)
36	05/08/2009	(771750)
37	05/08/2009	(771752)
38	05/08/2009	(771753)
39	05/08/2009	(771755)
40	05/08/2009	(771756)
41	05/08/2009	(771757)
42	05/18/2009	(771741)
43	05/18/2009	(771742)
44	05/18/2009	(771745)
45	05/27/2009	(771747)
46	06/11/2009	(771751)
47	08/11/2009	(771754)
48	10/22/2009	(749473)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	03/31/2005	(425183)	CN602860728
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/05/2005	(376098)	CN602860728
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter D 305.64(b)		
Description:	Failure to transfer the permit.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(d)		
Description:	Failure to accurately measure flow.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to maintain compliance with the permitted effluent limits for total suspended solids (TSS) daily average concentration and single grab limit.		
Date:	05/31/2005	(425185)	CN602860728
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2005	(445784)	CN602860728
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2005	(477669)	CN602860728
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2005	(477671)	CN602860728
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2006	(528532)	CN602860728
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2006	(528533)	CN602860728
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		



Date	08/31/2007	(771751)	CN602860728	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2007	(771754)	CN602860728	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/20/2007	(596142)	CN602860728	
Self Report?	NO			Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limitations and Monitoring PERMIT			
Description:	Failure to maintain compliance with permitted effluent limits for biochemical oxygen demand (BOD) and total suspended solids (TSS).			
Self Report?	NO			Classification: Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c) Monitoring and Reporting Requirements PERMIT			
Description:	Failure to submit monthly discharge monitoring reports.			
Self Report?	NO			Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring and Reporting Requirements PERMIT			
Description:	Failure to submit noncompliance notification for permit noncompliances.			
Self Report?	NO			Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(g)			
Description:	Failure to maintain the structural integrity of the wastewater plant.			
Date	01/31/2008	(771740)	CN602860728	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	02/29/2008	(771743)	CN602860728	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	03/31/2008	(771744)	CN602860728	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/30/2008	(771749)	CN602860728	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	07/31/2008	(771750)	CN602860728	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	08/31/2008	(771752)	CN602860728	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2008	(771755)	CN602860728	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2008	(771757)	CN602860728	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/31/2009	(771741)	CN602860728	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			

[illegible]

Description:	30 TAC Chapter 305, SubChapter F 305.125(17)	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Date	03/31/2009 (771745)	CN602860728
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date	04/30/2009 (771747)	CN602860728
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
8 MILE PARK, L.P.  
RN101614212**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1829-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding 8 Mile Park, L.P. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located in the Autumn Shadows Subdivision on the south side of State Highway 35 approximately 570 feet east of the intersection of State Highway 35 and Farm-to-Market Road 1459 in Brazoria County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 27, 2009 and on or about December 16, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirty-Nine Thousand Nine Hundred Ninety-Eight Dollars (\$39,998) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the

Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty. Therefore, Thirty-Five Thousand Nine Hundred Twenty Dollars (\$35,920) of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent has paid One Hundred Twenty-Three Dollars (\$123) of the undeferred administrative penalty. The remaining amount of Three Thousand Nine Hundred Fifty-Five Dollars (\$3,955) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Thirteen Dollars (\$113) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System

("TPDES") Permit No. WQ0013796001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review conducted on June 15, 2009 and shown in the following table:

EFFLUENT VIOLATION TABLE							
Months	BOD Daily Avg. Conc.	BOD Single Grab Conc.	BOD Daily Avg. Loading	TSS Daily Avg. Loading	TSS Single Grab Conc.	TSS Daily Avg. Conc.	Dissolved Oxygen Min. Conc.
	Limit = 20 mg/L	Limit = 65 mg/L	Limit = 1.2 lbs/day	Limit = 1.2 lbs/day	Limit = 65 mg/L	Limit = 20 mg/L	min. = 2.0
6/30/2008	c	c	c	c	c	c	1.20
7/31/2008	54.50	69.00	1.35	c	c	33.75	0.80
8/31/2008	34.75	c	c	c	c	33.50	1.00
10/31/2008	34.00	c	c	c	c	31.30	1.80
12/31/2008	24.00	78.00	c	c	c	23.80	c
1/31/2009	55.00	81.00	1.39	c	c	39.50	1.10
2/28/2009	39.00	81.00	c	c	88.00	48.00	0.80
3/31/2009	23.00	c	c	1.56	80.00	63.00	1.60

conc. = concentration

avg. = average

lbs/day = pounds per day

TSS = total suspended solids

mg/L = milligrams per liter

min. = minimum

BOD = biochemical oxygen demand

c = compliant

2. Failed to collect and analyze samples for chlorine residual for the monitoring periods ending April 2008 through December 2008 and January 2009 through March 2009, in violation of 30 TEX. ADMIN. CODE § 319.4 and TPDES Permit No. WQ0013796001, Effluent Limitations and Monitoring Requirements No. 2, as documented during a record review conducted on June 15, 2009. Specifically, the Respondent reported on the discharge monitoring reports ("DMR") that no data was available for this parameter.
3. Failed to submit the annual sludge report for the monitoring period ending July 31, 2008, by September 1, 2008, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013796001, Sludge Provisions, as documented during a record review conducted on June 15, 2009.
4. Failed to maintain operations and maintenance records, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0013796001, Operational Requirements

- No. 1. Specifically, the daily operator's log was not available for review during the September 29, 2009 investigation.
5. Failed to properly operate and maintain all facilities and systems of treatment and control, in violation of 30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(g) and TPDES Permit No. WQ0013796001, Operational Requirements No. 1. Specifically, two and a half feet of settled sludge in a six foot water depth was measured in the chlorine contact chamber, the staff gauge installed was not legible, the V-notch weir was severely rusted and can no longer be used to accurately measure flow, the weirs on the clarifier were not level, and only one blower was operational at the Facility, as documented during the September 29, 2009 investigation.
  6. Failed to properly operate and maintain all facilities and systems of treatment and control, in violation of 30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(g) and TPDES Permit No. WQ0013796001, Operational Requirements No. 1. Specifically, a high level alarm was not installed and only one pump was working at the on-site lift station, as documented during the September 29, 2009 investigation.
  7. Failed to employ a certified operator at the Facility a minimum of five days per week, in violation of 30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1) and TPDES Permit No. WQ0013796001, Other Requirements No. 1. Specifically, the operator stated that he lived 300 miles from the Facility and operates it once a week, as documented during the September 29, 2009 investigation.
  8. Failed to have all required monitoring and reporting records available for review upon request, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(a) and (c), and TPDES Permit No. WQ0013796001, Monitoring and Reporting Requirements No. 3.b and 3.c. Specifically, the DMRs were not available for review during the September 29, 2009 investigation.
  9. Failed to provide an intruder-resistant fence and hazard signage, in violation of 30 TEX. ADMIN. CODE § 317.7(e), as documented during the September 29, 2009 investigation. Specifically, the fence surrounding the Facility did not have barbed wire and was less than eight feet tall in some areas and hazard signs stating "Danger - Open Tanks - No Trespassing" were not present.
  10. Failed to provide a reduced pressure zone ("RPZ") backflow prevention device or air gap on the main potable water line to the Facility, in violation of 30 TEX. ADMIN. CODE § 317.4(a)(8), as documented during the September 29, 2009 investigation.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**



1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: 8 Mile Park, L.P., Docket No. 2009-1829-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:

- i. Update the Facility's operations guidance to ensure that all effluent parameters, including chlorine residual are monitored at the frequency specified in the permit;
- ii. Submit the annual sludge report for the monitoring period ending July 31, 2008, to:

Compliance Monitoring Section  
Enforcement Division, MC 224  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3088

- iii. Enclose the Facility with an eight foot intruder-resistant fence with barbed wire and with signs stating "Danger - Open Tanks - No Trespassing" fastened to the fence and within visible distance of each other, in accordance with 30 TEX. ADMIN. CODE § 317.7(e);
- iv. Install an RPZ backflow prevention device or air gap on the main potable water line to the Facility, in accordance with 30 TEX. ADMIN. CODE § 317.4(a)(8);
- v. Begin maintaining operations and maintenance records and all monitoring records on site, in accordance with 30 TEX. ADMIN. CODE § 319.7(a) and (c), and TPDES Permit No. WQ001379601, Monitoring and Reporting Requirements No. 3.b and 3.c; and
- vi. Ensure a properly certified operator operates the Facility at least five days per week, in accordance with 30 TEX. ADMIN. CODE § 30.350(d) and TPDES Permit No. WQ0013796001, Other Requirements No. 1.

- b. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision Nos. 2.a.i through 2.a.vi. The certification shall be in accordance with Ordering Provision No. 2.f below;
- c. Within 60 days after the effective date of this Agreed Order:
  - i. Install a high-level alarm and an operational backup pump for the lift station at the Facility;
  - ii. Install a back-up blower at the Facility;
  - iii. Ensure the weirs on the clarifiers are level in order to prevent short circuiting;
  - iv. Remove and properly dispose of sludge from the chlorine contact chamber; and
  - v. Install a legible staff gauge and a V-notch weir or an accurate primary flow measuring device;
- d. Within 75 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision Nos. 2.c.i through 2.c.v. The certification shall be in accordance with Ordering Provision No. 2.f below;
- e. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013796001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be in accordance with Ordering Provision No. 2.f below; and
- f. The written certification of compliance required by Ordering Provisions Nos. 2.b, 2.d, and 2.e shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A

Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

8 Mile Park, L.P.  
DOCKET NO. 2009-1829-MWD-E  
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## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director


2/10/2011  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

1-26-11  
\_\_\_\_\_  
Date

RONNIE FINKELMAN  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
8 Mile Park, L.P.

MEMBER  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.